IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6472 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE J.R.VORA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MADHUSUDAN RANGILDAS RANA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 6472 of 2003

MS SUBHADRA G PATEL for Petitioner No. 1

MR AD OZA ld. GOVERNMENT PLEADER for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE J.R.VORA

Date of decision: 24/09/2003

ORAL JUDGEMENT

By way of this special civil application, the petitioner has challenged the order of detention passed against him by the Police Commissioner, Surat city on

16.4.2003 under the exercise of powers under sec. 3(1) of the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as "the PASA Act" for short).

The grounds placed on record and served upon the petitioner reveal that the detaining authority took into consideration three offences registered against the petitioner on 24.3.2002, 2.3.2002 and 18.3.2003 under sec. 66(1)(B) and 65 E, F and 81 of the Bombay Prohibition Act. The detaining authroity also took into consideration in-camera statements of witnesses recorded by the proposing authority on 30.3.2003 and 31.3.2003 revealing unreported incidents on 23.2.2002 and 16.3.2003. The statements came to be verified by the detaining authority on 12.4.2003 and order came to be passed on 16.4.2003.

Ld. advocate Ms. SG Patel for the petitioner and ld. GP Mr AD Oza for the respondents were heard at length.

Out of various contentions raised and controverted on behalf of the respondents, this petition can be disposed of on the ground of delay in passing the order. The cronological events, which the detaining authority relied upon are as under

23.2.2003- offence registered
2.3.2003 unreported incident
16.3.2003 offence registered
18.3.2003 offence registered

The statements of unreported incident came to be recorded on 30.3.2003 and 31.3.2003 and verified by the detaining authority on 12.3.2003. It appears that there is delay in placing the material before the detaining authority. Though as revealed above, the last incident i.e. registered crime is dated 18.3.2003 and the order came to be passed on 16.4.2003. Though the statement were verified on 12.4.2003, the order came to be passed after four days i.e. on 16.4.2003. Taking overall picture, it is clear that there is delay in passing the order of detention. This delay is fatal to the order impugned in this petition and, therefore, requires to be quashed on this ground alone.

In the result, this special civil application is allowed. The order impugned in this special civil application passed on 16.4.2003 by the Police Commissioner, Surat city, under the PASA Act against the

petitioner is quashed and set aside. The petitioner is directed to be set at liberty forthwith, if he is not required to be detained in jail for any other purpose. Rule made absolute with no order as to costs.

(J.R. VORA, J.)

mandora/